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9
10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**
12

13 In the Matter of the Accusation Against:

Case No. 2009-298

14 **KARIN LEE STAMM**
2325 Howard Avenue
15 San Diego, California 92104

A C C U S A T I O N

16 Registered Nurse License No. 689943,

17 Respondent.
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19 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

20 **PARTIES**

21 1. Complainant brings this Accusation solely in her official capacity as the
22 Executive Officer of the Board of Registered Nursing ("Board") Department of Consumer
23 Affairs.

24 2. On or about October 4, 2006, the Board issued Registered Nurse License
25 No. 689943 to Karin Lee Stamm ("Respondent"). The registered nurse license will expire on
26 April 30, 2010, unless renewed.

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1 safety to the public the practice authorized by his or her license.

2 (c) Be convicted of a criminal offense involving the prescription,
3 consumption, or self-administration of any of the substances described in
4 subdivisions (a) and (b) of this section, or the possession of, or falsification of a
5 record pertaining to, the substances described in subdivision (a) of this section, in
6 which event the record of the conviction is conclusive evidence thereof.

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8 8. Code section 2764 provides, in pertinent part, that the expiration of a
9 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
10 against the licensee or to render a decision imposing discipline on the license. Under Code section
11 2811, subdivision (b), the Board may renew an expired license at any time within eight years after
12 the expiration.

13 9. Code section 4060 states:

14 No person shall possess any controlled substance, except that furnished to
15 a person upon the prescription of a physician, dentist, podiatrist, optometrist,
16 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
17 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
18 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant
19 pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
20 pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv)
21 of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This
22 section shall not apply to the possession of any controlled substance by a
23 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,
24 optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse
25 practitioner, or physician assistant, when in stock in containers correctly labeled
26 with the name and address of the supplier or producer.

27 Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a
28 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous
29 drugs and devices.

30 10. Section 482 of the Code states:

31 Each board under the provisions of this code shall develop criteria to
32 evaluate the rehabilitation of a person when:

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34 (b) Considering suspension or revocation of a license under Section 490.

35 Each board shall take into account all competent evidence of rehabilitation
36 furnished by the applicant or licensee.

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1 11. Section 490 of the Code states:

2 (a) In addition to any other action that a board is permitted to take against
3 a licensee, a board may suspend or revoke a license on the ground that the licensee
4 has been convicted of a crime, if the crime is substantially related to the
qualifications, functions, or duties of the business or profession for which the
license was issued.

5 (b) Notwithstanding any other provision of law, a board may exercise any
6 authority to discipline a licensee for conviction of a crime that is independent of
the authority granted under subdivision (a) only if the crime is substantially related
7 to the qualifications, functions, or duties of the business or profession for which
the licensee's license was issued.

8 (c) A conviction within the meaning of this section means a plea or verdict
9 of guilty or a conviction following a plea of nolo contendere. Any action that a
board is permitted to take following the establishment of a conviction may be
10 taken when the time for appeal has elapsed, or the judgment of conviction has been
affirmed on appeal, or when an order granting probation is made suspending the
11 imposition of sentence, irrespective of a subsequent order under the provisions of
Section 1203.4 of the Penal Code.

12 (d) The Legislature hereby finds and declares that the application of this
13 section has been made unclear by the holding in Petropoulos v. Department of
Real Estate (2006) 142 Cal.App.4th 554, and that the holding in that case has
14 placed a significant number of statutes and regulations in question, resulting in
potential harm to the consumers of California from licensees who have been
15 convicted of crimes. Therefore, the Legislature finds and declares that this section
establishes an independent basis for a board to impose discipline upon a licensee,
16 and that the amendments to this section made by Senate Bill 797 of the 2007-08
Regular Session do not constitute a change to, but rather are declaratory of,
existing law.

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18 12. Section 493 of the Code states:

19 Notwithstanding any other provision of law, in a proceeding conducted by
20 a board within the department pursuant to law to deny an application for a license
or to suspend or revoke a license or otherwise take disciplinary action against a
21 person who holds a license, upon the ground that the applicant or the licensee has
been convicted of a crime substantially related to the qualifications, functions, and
22 duties of the licensee in question, the record of conviction of the crime shall be
conclusive evidence of the fact that the conviction occurred, but only of that fact,
and the board may inquire into the circumstances surrounding the commission of
23 the crime in order to fix the degree of discipline or to determine if the conviction is
substantially related to the qualifications, functions, and duties of the licensee in
24 question.

25 As used in this section, "license" includes "certificate," "permit,"
"authority," and "registration."

26 13. California Code of Regulations, title 16, section 1444, states:

27 A conviction or act shall be considered to be substantially related to the
28 qualifications, functions or duties of a registered nurse if to a substantial degree it
evidences the present or potential unfitness of a registered nurse to practice in a

1 manner consistent with the public health, safety, or welfare. Such convictions or
2 acts shall include but not be limited to the following:

3 (a) Assaultive or abusive conduct including, but not limited to, those
4 violations listed in subdivision (d) of Penal Code Section 11160.

5 (b) Failure to comply with any mandatory reporting requirements.

6 (c) Theft, dishonesty, fraud, or deceit.

7 (d) Any conviction or act subject to an order of registration pursuant to
8 Section 290 of the Penal Code.

9 14. California Code of Regulations, title 16, section 1445, states:

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11 (b) When considering the suspension or revocation of a license on the
12 grounds that a registered nurse has been convicted of a crime, the board, in
13 evaluating the rehabilitation of such person and his/her eligibility for a license will
14 consider the following criteria:

15 (1) Nature and severity of the act(s) or offense(s).

16 (2) Total criminal record.

17 (3) The time that has elapsed since commission of the act(s) or offense(s).

18 (4) Whether the licensee has complied with any terms of parole, probation,
19 restitution or any other sanctions lawfully imposed against the licensee.

20 (5) If applicable, evidence of expungement proceedings pursuant to Section
21 1203.4 of the Penal Code.

22 (6) Evidence, if any, of rehabilitation submitted by the licensee.

23 15. Health and Safety Code section 11350, subdivision (a) provides that except
24 as otherwise provided in this division, every person who possesses (1) any controlled substance
25 specified in subdivision (a) or (c), or paragraph (1) of subdivision (f) of section 11054, specified in
26 paragraph (14), (15), or (20) of subdivision (d) of section 11054, or specified in subdivision (b),
27 (c), or (g) of section 11055, or (2) any controlled substance classified in Schedule III, IV, or V
28 which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or
veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison.

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1 2. Ordering Karin Lee Stamm to pay the Board of Registered Nursing the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Code section
3 125.3; and,

4 3. Taking such other and further action as deemed necessary and proper.
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6 DATED: 5/28/09
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8 
9 RUTH ANN TERRY, M.P.H., R.N.
10 Executive Officer
11 Board of Registered Nursing
12 Department of Consumer Affairs
13 State of California
14 Complainant
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